

EXHIBIT O

**DECLARATION OF ANN M. O'LEARY IN SUPPORT OF DEFENDANTS'
OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION**

'JUICE POLITICS' AT CITY HALL

Endgame on the S.F. waterfront

Would-be developers of Piers 27-31 never knew what hit them

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07-29) 04:00 PDT San Francisco -- The New York company had the backing of a key citizens advisory group, and a port economic consultant had recommended Chelsea's plan instead of a rival proposal from the Mills Corp., a shopping center developer with close ties to Mayor Willie Brown that also wants to build a mall next to a proposed new football stadium at Candlestick Point.

But on April 18, hours before the Port Commission was to choose a developer for Piers 27-31, Chelsea Chairman Roland Betts was called by state Sen. John Burton, the powerful San Francisco Democrat the company had hired as an adviser and lobbyist.

"Hey, Betts, you lost," Burton said, according to Betts. "The mayor is . . .

putting the squeeze on everybody. And you lose."

The story of the port's decision to ignore the recommendations of its advisers and award the project to Mills is a case study in City Hall "juice politics." It shows how Mayor Brown, through last-minute lobbying of a key commissioner, steered the deal to his friends and political allies.

The story also raises questions about bidding practices at the port and the actions of city Port Director Doug Wong. Chelsea executives said Wong urged them to hire Burton and also asked them for help finding Wong a higher-paying job. Wong, who was appointed by Mayor Brown, denies both allegations.

P.J. Johnston, the mayor's press secretary, said Chelsea lost a tough but fair public-policy fight and now was making "wild accusations" because it didn't like the outcome.

"Before Chelsea lost, they weren't complaining about the process. They were happy to have their own heavy hitters in their camp at the time," he said. "It sure seems like sour grapes."

From Chelsea's standpoint, however, the Piers 27-31 story is a cautionary tale about the lengths to which companies must go to do business with the city under the Brown administration.

"It was repulsive," said Chelsea's Betts.

Visit to new york

Chelsea Piers L.P. was formed in 1992 by Betts and Tom Bernstein, owners of a movie and television production company and former co-owners of the Texas Rangers baseball team with future President George W. Bush.

For a company with such impressive Republican ties, its introduction to Democratic San Francisco began happily enough, according to the company and other sources.

In October 1996, while inquiring about available land in the city, Chelsea officials were referred to Sylvia Kwan, a local architect and Chamber of Commerce board member. Kwan brought Chelsea's interest to the attention of then-Supervisor Michael Yaki.

In July 1997, while Yaki and Brown were both in New York City, Yaki asked the mayor to meet him at Chelsea Piers' Hudson River project.

What Brown saw was a sprawling recreation village built on an old waterfront garbage dump. Spanning five city blocks, the complex featured skating rinks, basketball courts, golf ranges, a swimming pool, bowling alley, health club, rock-climbing wall and boat docks as well as restaurants, sporting-goods stores and production space for its sister company, Silver Screen Studios.

The mayor was impressed and invited Chelsea executives to consider developing a similar project in San Francisco.

The following year, with the assistance of the port and the mayor's Office of Economic Development, Betts and other Chelsea executives toured potential sites for a Chelsea Piers west.

They visited the Presidio and Treasure Island and walked much of the 7.5 miles of San Francisco's waterfront. But when the Chelsea team stepped foot onto Piers 27-31, Kwan recalls, "Their jaws just dropped."

The 19-acre site, located at the Embarcadero and Battery Street, commands a panoramic view from the Golden Gate Bridge to the Bay Bridge. The piers' long, cavernous sheds appeared perfectly suited to all manner of sports.

It was exactly the place they were looking for," Kwan said.

By May 1999, to accommodate Chelsea, the mayoral-appointed Port Commission rezoned Piers 27-31 from maritime to recreational uses and named a panel of citizens to the Northeast Waterfront Advisory Group to craft a request for proposals (RFP) from potential developers.

The RFP called for a "mixed-use recreation project integrating a varied mix of maritime and commercial uses and open space, including a major public plaza,

oriented around active recreational pursuits."

Developer with 'juice'

Mills, the Virginia developers of innovative mega-malls from the Carolinas to California, had other ideas about what people might do at Piers 27-31: shop and work.

A retail and office complex wasn't what the port or its citizen advisers envisioned for the piers, nor was it called for in the RFP. But Mills had something special going for it: a close political relationship with Mayor Brown.

In 1997, Mills was the partner of the San Francisco 49ers in a campaign led by Brown and bankrolled by the team to pass a \$100 million bond measure for a new stadium and mall at Candlestick Point.

The project has yet to be built, but the narrow victory won that June by Brown, the 49ers and Mills forged a bond between the developer and the mayor. And the political strategy they employed in that campaign would be repeated in the waterfront deal.

This time, instead of teaming up with the 49ers, Mills partnered with the YMCA, which would help Mills meet the UFP demands for a recreation-oriented project. In exchange, Mills would deliver, at no cost to the YMCA, an incomparable waterfront locale for a grand fitness center, provided the nonprofit could raise the money to build it.

And like the 1997 stadium-mall campaign, which pitched that project as a way to create jobs in the Hunters Point district, Mills would later frame the piers campaign in populist terms as a choice between the interests of local YMCA members and the interests of New York developers who cater to the wealthy and have ties with the new Republican president.

Port director's advice

In January 1999, Chelsea's Betts said, Port Director Doug Wong pulled him out of a meeting at the port's executive offices to give him some advice.

Wong, Betts said, told him he needed to hire state Sen. John Burton, long a political ally of the mayor, to improve his chances of securing the rights to Piers 27-31. At one point, Betts said, Wong got the senator on the phone and handed Betts the receiver.

Wong said he mentioned Burton only after Betts asked for the names of local people who could help Chelsea's cause.

Betts said he checked the legality of such an arrangement with his lawyer at Coblenz Patch Duffy & Bass, one of the most politically connected firms in the city. According to Betts, the attorney told him that not only was it legal,

"If you (Betts) don't hire him (Burton), somebody else will."

Chelsea retained Burton as a lobbyist and adviser, paying him \$5,000 a month, according to Chelsea and public records.

Burton said he doesn't know how Chelsea got his name, but said there is nothing wrong with his moonlighting as a lobbyist provided he doesn't represent clients before state government.

Chelsea wasn't finished there. The company paid \$60,000 to the San Francisco Giants, one of the port's biggest tenants, to lobby port commissioners and members of the Board of Supervisors, according to city records.

Chelsea also hired former Supervisor Yaki after he lost a re-election bid in December, but severed ties when the arrangement became a liability with new board members.

In all, the company said it spent \$750,000 preparing its bid, tens of thousands of dollars of which went into

"We never ran into this in New York," Betts said. "In New York, the proposal was determined on the merits. We were surprised that we were supposed to submit (a bid) and then run (the equivalent of a campaign) for office."

Team of insiders

Mills was used to pushing political buttons.

Since 1998, the company has pumped more than \$260,000 into the campaign coffers of officials with regulatory sway over their projects around the nation, public records show.

In San Francisco, 16 different executives and lobbyists for Mills combined to donate \$10,500 to Mayor Brown's 1999 re-election campaign. Last year, Mills gave \$5,000 to the Alice B. Toklas Club, which was collecting soft-money donations to support the mayor's slate of candidates for the Board of Supervisors. In 1998, before he became a lobbyist for Chelsea, Burton received \$5,000 in campaign money from Mills.

Mills also hired a number of people with close ties to Brown.

Two were lawyers who had worked on the stadium-mall campaign with Brown -- Steven Kay and James Reuben. Reuben also represented the mayor's transition team after Brown's December 1995 election.

Another Mills hire was Sacramento lobbyist Cristina Rose, a friend of and fund-raiser for the mayor. She went on Mills' corporate board.

As consultants on the project, Mills hired David Prowler, who briefly headed the mayor's economic development office; Rose Pak, Brown's Chinatown ward heeler; and James Jefferson, another fund-raiser for the mayor.

After submitting its bid on Dec. 5, 2000, Mills paid more than \$65,000 to political consulting, public relations and lobbying firms for automated telephone calls and newspaper ads urging YMCA members and others to contact port commissioners on its behalf.

One of the ads dubbed Chelsea Piers "a playground for the rich."

David Tewksbury, Chelsea's executive vice president, said Mills ran a smear campaign.

They were blatant attack pieces," Tewksbury said.

Mills executives refused to be interviewed for this story. But James Dausch,

Mills senior vice president interviewed shortly after the commission awarded the site, defended the hardball tactics, charging that the port staff had rigged the process in favor of Chelsea through an RFP drafted with one company in mind.

People visited Chelsea Piers before the RFP even came out. . . . Going into the process, the port staff wanted Chelsea Piers in there. And Chelsea Piers thought they had it."

helsea's edge

helsea had reason for optimism.

In February, Brown attended a birthday party with his daughter and granddaughter at Chelsea Piers New York, helsea officials said.

The following month, the port's consultant, Bay Area Economics, which was hired to evaluate the proposals, gave helsea higher marks on everything from compliance with the port's goals and legal restrictions on development of the site to the financing and feasibility of the project.

A week later, the citizens' Northeast Waterfront Advisory Group concurred. A port advisory panel of Fisherman's Wharf businesses gave Chelsea the nod, too.

The Chelsea proposal "will accomplish what we hoped . . . a large recreation opportunity on the waterfront. . . .," the citizens advisory group told the Port Commission.

Called Mills' proposal "less responsive . . . and not what we envisioned," saying "it is more office and retail than recreation."

Of particular concern, the economic consultant said, was the amount of retail space (184,000 square feet) and office space (272,000 square feet) proposed by Mills.

He also pointed out that the S.F. YMCA has never raised the kind of money --

\$30 million -- it said it needed to build its new health club on the piers.

Request for help

The first sign of trouble for Chelsea came April 16, two days before the commission vote.

The staff report given to the commission that day contained no recommendation from Wong. The port director had always weighed in on big projects, but not this time.

The omission was not the first time Chelsea executives felt uncomfortable about Wong's handling of the Piers 27-1 RFP.

Chelsea executives said they hired Burton at Wong's urging. They said the port director also frequently complained that he felt underpaid and asked for help finding a new, higher-paying job.

It became a constant theme. He always seemed to have a way to work it into the conversation. He'd work it in as "we were part of the solution," said Chelsea President Bernstein.

At dinner with Chelsea executives one night in January, Wong asked Betts about the prospect of getting a post in the new administration of President Bush, with whom Betts had maintained close ties. Wong mentioned an interest in foreign trade, Betts said.

: was along of the lines of, 'Gee, I'm unhappy here. Do you think there is going to be anything for me in the Bush ministratin?' " Betts said.

Betts said he rebuffed Wong on the spot.

"hat was so unbelievably inappropriate," Betts said. "That suggested to me that if I do that, I get the site."

ong declined to be interviewed. In a letter responding to questions posed by The Chronicle, he denied asking e Chelsea executives for a job and claimed it was Betts who made the inappropriate comments.

oland Betts spent a great deal of time in San Francisco bragging about his 'personal and close relationship with e President,' " Wong wrote. The Chelsea executive claimed he could get a White House job for anyone he anted, Wong wrote. Wong said he ignored Betts' comments, which he said reflected "naivete and loutishness."

all from the mayor

he morning of April 18, Port Commissioner Michael Hardeman, a labor leader,

as called by Brown.

What the mayor told me was, affordability was the key. . . . I knew more of my (union) members could afford the MCA than could afford the Chelsea Piers" recreational fees.

hen Burton called, Hardeman said, and the commissioner gave the senator the news.

urton then called Betts and told him that the commission was going with Mills. When Betts professed shock, urton said, "You don't really know San Francisco politics, do you?"

urton confirmed calling Betts but said he didn't use the phrase "the mayor is . . . putting the squeeze on everybody," as Betts claimed.

urton's call to Hardeman, according to a report Burton filed with the city Ethics Commission, was the only contact Burton had with any city official on Chelsea's behalf. For his services, which Burton said also included dvice about how to proceed, the company paid him \$43,000.

A few hours after Burton and Betts spoke, the commission voted 3-to-2 in favor of Mills.

rown spokesman Johnston defended the mayor's involvement, saying Brown liked both proposals, but decided Mills' plan would better serve "everyday San Franciscans, especially lower-income San Franciscans."

rown didn't twist arms over the issue, Johnston maintained, citing the close final vote as proof.

le said the contest came down to "two fairly powerhouse business entities who had enlisted strong, high-profile upporters on both sides, going to the wire on a Port Commission vote."

citizens' protest

Anne Halsted, chairwoman of the citizens advisory group, isn't someone to lash out at the local political establishment.

She was an appointee of Brown's to a commission overseeing redevelopment of Treasure Island. Recently, Gov. Gray Davis appointed her to the Bay Conservation and Development Commission (BCDC).

But after the vote, Halsted and the advisory group wrote to the Port Commission president, asking for an explanation.

The Port Commission, Halsted's group wrote, had "subverted the public process and misled developers and the public by implying that the proposals would be judged on their merits."

Halsted declined to be interviewed. As a new member of BCDC, she noted, she might have to make a regulatory decision on Mills project.

BACK TO THE DRAWING BOARD

Mills' final plans for the piers won't be known publicly for several weeks.

Technically, the Port Commission awarded Mills only an exclusive right to negotiate a development lease. Government officials poised to review the project expect big changes if the Mills proposal is to clear state regulatory hurdles.

The Mills proposal may face its toughest review from BCDC.

Vill Travis, BCDC executive director, said his staff is concerned about the amount of office space proposed by Mills.

But he also said that the Mills project ultimately approved by the port and forwarded to BCDC may be far different from the one now on the drawing boards.

"It sounds like they (the Port Commission) selected Mills and told them to build the Chelsea project," he said.

HOW THE PIERS 27-31 DEAL WENT DOWN

Two companies sought the right to develop Piers 27-31 in San Francisco - Chelsea Piers L.P. of New York, developer of a recreational center on the Hudson River, and the Mills Corp., a developer of shopping malls and a partner with the San Francisco 49ers on a proposed new stadium/mall project to replace 3Com Park. Each company worked with Port Director Doug Wong and sought support from City Hall insiders and Mayor Brown's associates.

STEP 1

In May 1999, the San Francisco Port Commission votes to rezone Piers 27-31 from maritime to recreational uses. The commission also names a panel of citizens to the Northeast Waterfront Advisory Group to draft a formal request for proposals, (RFP), from developers interested in developing the piers.

STEP 2 The RFP is issued. Chelsea Piers L.P., a New York developer of a recreational center along the Hudson River, and the Mills Corp., a Virginia developer of shopping malls, respond with proposals: . -- Chelsea Piers

At a cost of \$88.2 million, Chelsea Piers would devote the three San Francisco piers to recreational facilities, including a sports center, aquatic center, field house with gymnastics, extreme sports park, ice and roller rinks and bowling and billiards center. It would include a health club and outdoor public plaza. -- the Mills

At a cost of \$98.7 million, the Mills Corp. would set aside space for a 146, 000-square-foot YMCA with 53,000 additional square feet outside and on the roof for sports facilities such as a skate park, BMX track and climbing wall. The plan also would include an outdoor public plaza and devote the better part of two piers to offices, shops, restaurants and parking.

STEP 3 The rival developers hire City Hall insiders to lobby the Port Commission and win the approval of Mayor Brown..

Chelsea Piers hires state Senator John Burton, the San Francisco Giants, former Supervisor Michael Yaki and the politically connected law firm of Coblenz Patch Duffy & Bass. .

The Mills Corp. hires Steven Kay and James Reuben, lawyers who worked with Mills and the mayor on the stadium/mall project to replace 3Com Park; Cristina Rose, Sacramento lobbyist, and friend of and fund-raiser for Brown; David Prowler, former head of Brown's economic development office; Rose Pak, Brown's Chinatown ward healer; and James Jefferson, long-time Brown friend and fund-raiser.

STEP 4 An economic consultant hired by the Port Commission recommends that the Port Commission select the Chelsea Piers proposal.

STEP 5

The Northeast Waterfront Advisory Group recommends that the Port Commission select the Chelsea Piers proposal.

STEP 6

On April 18, just hours before the Port Commission is to select one of the proposals, Mayor Brown calls commissioner Michael Hardeman and urges him to support -the Mills Corp. proposal.

STEP 7 Later that day, by a 3-to-2 vote with commissioner Kimberly Brandon, Pius Lee and Michael Hardeman in the majority, the Port Commission awards the right to develop Piers 27-31 to the Mills Corp. SOURCE: Port staff and consultant reports and port commissioners

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<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2001/07/29/MN126666.DTL>

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